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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,105	07/15/2002	Terry Roemer	110182-015-999	5750

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1155 Avenue of the Americas
New York, NY 10036

EXAMINER

LEFFERS JR, GERALD G

ART UNIT PAPER NUMBER

1636

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,105

Applicant(s)

ROEMER ET AL.

Examiner

Gerald G Leffers Jr., PhD

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-20 and 24-27 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt is acknowledged of a preliminary amendment, filed on 11/5/2001, in which claims were amended (claims 1, 3-19 and 24-25), claims were cancelled (claims 21-23) and in which new claims were added (26-27). Claims 1-20 & 24-27 are pending in the instant application and are subject to the following restriction requirement.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions that are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-4 & 10-11 are drawn to a nucleic acid encoding a CaKRE5 protein (e.g. SEQ ID NO: 1), nucleic acids that hybridize thereto and methods of detecting a nucleic acid in a sample.

Group II, claim(s) 1-3, 5 & 10-11 are drawn to a nucleic acid encoding a CaLAR1 protein (e.g. SEQ ID NO: 3), nucleic acids that hybridize thereto and methods of detecting a nucleic acid in a sample.

Group III, claim(s) 1-3, 6 & 10-11 are drawn to a nucleic acid encoding a CaCDC24 protein (e.g. SEQ ID NO: 5), nucleic acids that hybridize thereto and methods of detecting a nucleic acid in a sample.

Group IV, claim(s) 7, 12, 15, 19-20 & 24-25 are drawn to a CaKRE5 protein (e.g. SEQ ID NO: 2) and methods of selecting a compound that modulates the activity of a CaKRE5 protein or which has antifungal activity.

Group V, claim(s) 8, 13, 16, 19-20 & 24-25 are drawn to a CaALR1 protein (e.g. SEQ ID NO: 4) and methods of selecting a compound that modulates the activity of a CaLAR1 protein or which has antifungal activity.

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Group VI, claim(s) 9, 14, 17, 19-20 & 24-25 are drawn to a CaCDC24 protein (e.g. SEQ ID NO: 6) and methods of selecting a compound that modulates the activity of a CaLAR1 protein or which has antifungal activity.

Group VII, claim(s) 18 is drawn to an antibody having specific binding affinity for a CaKRE5 protein (e.g. SEQ ID NO: 2).

Group VIII, claim(s) 26 is drawn to an antibody having specific binding affinity for a CaALR1 protein (e.g. SEQ ID NO: 4).

Group IX, claim(s) 27 is drawn to an antibody having specific binding affinity for a CaCDC24 protein (e.g. SEQ ID NO: 6).

The inventions listed as Groups I-IX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: each of the nucleic acids of the first named invention have unique structural/functional properties that convey different special technical features that are not present for the other nucleic acids. For example, each nucleic acid recited in the first named invention encodes a unique protein (i.e. CaKRE5, CaALR1 or CaCDC24) having unique structural and functional characteristics (e.g. biosynthesis of B-1,6-glucan, divalent cation transport and GDP-GTP nucleotide exchange factor activities, respectively). Even if one considers that each of the recited nucleic acids of the first named invention shares the special technical feature of being an essential gene in *Candida albicans*, there is no unity of invention due to the fact that essential genes for *C. albicans* are and were known in the art, as admitted by applicants own specification at page 2, lines 25-30 (e.g. CaFKS1, CaHSP90, CaKRE6, CaPRS1, CaRAD6, CaSNF1 and CaEFT2).

With regard to the groups directed to isolated polypeptides and methods of use thereof, and the groups directed to antibodies against the isolated polypeptides, these groups do not share a special technical feature with the nucleic acids of the first named invention as they are directed to biomolecules having unique structural and functional characteristics distinct from those of nucleic acids.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald G Leffers Jr., PhD whose telephone number is (571) 272-0772. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gerald G Leffers Jr., PhD
Primary Examiner
Art Unit 1636

ggl


GERRY LEFFERS
PRIMARY EXAMINER